

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

Protecting Texas by Reducing and Preventing Pollution

November 5, 2007

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision
SNW Enterprises, Inc. dba Super Stop 12 and Super Stop 13
SOAH Docket No. 582-06-2152; TCEQ Docket No. 2005-1300-PST-E

Dear Ms. Castañuela:

Enclosed for filing are the originals of the 1) the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and 2) the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision.

Enclosed please also find one copy of this letter to you, one copy of the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision, one copy of the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision, and one copy of the letter to the Respondent. Please file stamp these documents and return them to Robert R. Mosley, Attorney, Litigation Division, MC 175. If you have any questions or comments, please call me at (512) 239-0627.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Mosley".

Robert R. Mosley
Attorney
Litigation Division

Enclosures

cc: Ms. Jennifer Fleck, Ted A. Cox, P.C., 4910 Dacoma, Suite 100, Houston, TX 77092
Ms. Judy Kluge, Enforcement Division, TCEQ, MC R-4
Mr. Derek Eades, Waste Section Manager, TCEQ, MC R-10
Mr. Blas Coy, Public Interest Counsel, TCEQ, MC 103

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 5, 2007

**Via Interagency Mail, and
Via Facsimile Transmission to: (512) 475-4994**

The Honorable Cassandra Church
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711

Re: The Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and The Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision;
SNW Enterprises, Inc. dba Super Stop 12 and Super Stop 13
SOAH Docket No. 582-06-2152; TCEQ Docket No. 2005-1300-PST-E

To The Honorable Judge Church:

Please find enclosed a copy of 1) the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and 2) the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision. These pleadings are being filed in response to your Proposal for Decision dated on July 2, 2007. If you have any questions or comments, please call me at (512) 239-0627.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Mosley".

Robert R. Mosley
Attorney
Litigation Division

Enclosures

cc: Office of the Chief Clerk, MC 105
Ms. Jennifer Fleck, Ted A. Cox, P.C., 4910 Dacoma, Suite 100, Houston, TX 77092

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**EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,
PETITIONER**

BEFORE THE CHIEF CLERKS OFFICE

VS.

STATE OFFICE OF

**SNW ENTERPRISES, INC. DBA
SUPER STOP 12 AND SUPER STOP
13,
RESPONDENT**

ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE ADMINISTRATIVE LAW
JUDGE'S PROPOSAL FOR DECISION**

TO THE HONORABLE JUDGE CHURCH:

COMES NOW the Executive Director of the Texas Commission on Environmental Quality (“TCEQ” or “Commission”), represented by the Litigation Division, and files these Exceptions to the Administrative Law Judge’s Proposal for Decision. In support thereof, the Executive Director would show the following:

I. PROPOSED ORDER

The Executive Director (“ED”) respectfully requests that the ALJ make the following revisions to the Proposed Order:

CONCLUSION OF LAW NO. 22

The Executive Director respectfully requests that the penalty amount stated in Conclusion of Law No. 22 be changed from \$22,661.00 to \$44,880.00. This change would adjust the proposed penalty to be consistent with the ability-to-pay financial review policy as established by the testimony of Richard Clarke, Manager of the Air Enforcement Section.

ORDERING PROVISION NO. 1

The Executive Director respectfully requests that the penalty amount stated in Ordering Provision No. 1 be changed from \$22,661.00 to \$44,880.00. This change would adjust the proposed penalty to be consistent with the ability-to-pay financial review policy as established by the testimony of Richard Clarke, Manager of the Air Enforcement Section.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Mary R. Risner, Division Director
Litigation Division

By: 

Robert R. Mosley
State Bar of Texas No. 24002654
Litigation Division, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Telephone: (512) 239-3400
Fax: (512) 239-3434

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2007, the original and eleven (11) copies of the foregoing "Exceptions to Administrative Law Judge's Proposal for Decision" ("Exceptions") was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day a true and correct copy of the foregoing Exceptions was mailed via Certified Mail, return receipt requested (Article No. 70042510000391178716), to:

Jennifer Fleck
Ted A. Cox, P.C.
4910 Dacoma, Suite 100
Houston, Texas 77092

I further certify that on this day a true and correct copy of the foregoing Exceptions was hand-delivered, to Blas Coy, Jr., Office of the Public Interest Counsel, Texas Commission on Environmental Quality - MC 103.

I further certify that on this day a true and correct copy of the foregoing Exceptions was sent via fax to (512) 475-4994 and mailed via inter agency mail, to:

The Honorable Cassandra Church
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Suite 502
P.O. Box 13025
Austin, Texas 78711-3025



Robert R. Mosley
Attorney
Litigation Division
Texas Commission on Environmental Quality

TEXAS
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CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



ORDER

**Assessing Administrative Penalties Against
SNW Enterprises, Inc.,
dba Super Stop 12 and Super Stop 13
TCEQ Docket No. 2005-1300-PST-E
SOAH Docket No. 582-06-2152**

On _____, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the Executive Director's First Amended Preliminary Report and Petition (EDFARP) recommending that the Commission enter an order assessing administrative penalties of \$44,880.00 against SNW Enterprises, Inc. (Respondent), dba Super Stop 12 and Super Stop 13, for violations arising from operation of underground petroleum storage tanks (USTs) at convenience stores in Nederland and Port Neches, Texas. A Proposal for Decision (PFD) was presented by Cassandra J. Church, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted a hearing concerning the EDFARP on August 13, 2007, in Austin, Texas.

The Executive Director (ED), represented by Staff Attorney Robert M. Mosley, and Respondent, represented by Attorney Jennifer Fleck, appeared at the hearing. The record closed August 17, 2007, after submission of an additional exhibit.

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. SNW Enterprises, Inc. (Respondent), operated convenience stores with retail sales of gasoline located at 2223 Nederland Avenue, Nederland, Jefferson County, Texas (Station 12) and 1202 Magnolia Avenue, Port Neches, Jefferson County, Texas (Station 13).
2. In May 2005, Respondent's USTs at Stations 12 and 13 contained a regulated petroleum substance as defined by the rules of the Texas Commission on Environmental Quality (Commission).
3. The USTs at Stations 12 and 13 are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
4. On May 3 and 4, 2005, a Commission investigator inspected Stations 12 and 13 to determine whether Respondent was complying with statutes within the Commission's jurisdiction and rules adopted thereunder.
5. On May 3, 2005, Respondent failed to maintain a copy of the applicable California Air Resources Board (CARB) Executive Order for the Stage II Vapor Recovery System and failed to maintain a record of the results of Stage II Vapor Recovery System testing and results of daily inspections conducted at Station 12 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1), (5), and (6).
6. On May 3, 2005, Respondent failed to verify proper operation of the Stage II equipment at least once every 12 months at Station 12 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2).

7. On May 3, 2005, Respondent failed to ensure that each current employee was made aware of the purpose and correct operation of the Stage II equipment at Station 12 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1).
8. On May 3, 2005, Respondent failed to maintain the Stage II Vapor Recovery System in proper operating condition, including but not limited to the absence or disconnection of any component that is a part of the approved system and the pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks that were inoperative or defective at Station 12 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(3)(A) and (J).
9. On May 3, 2005, Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs at Station 12 in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
10. On May 3, 2005, Respondent failed to ensure that Station 12 had a release-detection method capable of detecting a release from any portion of the UST system which contained regulated substances, including the tanks, piping, and other ancillary equipment; failed to conduct proper release detection for the piping associated with the UST system; failed to test the line leak detector on an annual basis for performance and operational reliability; and failed to conduct monthly reconciliation of inventory control records in a manner sufficiently accurate to detect a release which equalled or exceeded the sum of one percent

- of flow-through plus 130 gallons in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii).
11. On May 3, 2005, Respondent failed to ensure that the self-certification form for Station 12 was fully and accurately completed and submitted to the Commission in a timely manner in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(B).
 12. On May 3, 2005, Respondent failed to have all emergency shutoff valves securely anchored at the base of each aboveground dispensing unit at Station 12 in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
 13. On May 3, 2005, Respondent failed to notify the Commission regarding any Statistical Inventory Reports (SIRs) that were noted as inconclusive, or of a suspected release at Station 12, in violation of 30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(v) and 334.72.
 14. On May 3, 2005, Respondent failed to immediately investigate and to confirm within 30 days all suspected releases of regulated substances at an UST at Station 12 in violation of 30 TEX. ADMIN. CODE § 334.74.
 15. On May 4, 2005, Respondent failed to maintain a copy of the applicable CARB Executive Order for the Stage II Vapor Recovery System, failed to maintain proof of attendance and completion of Stage II training records, and failed to record the results of Stage II Vapor Recovery System testing at Station 13 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1), (4), and (5).
 16. On May 4, 2005, Respondent failed to verify proper operation of the Stage II equipment at least once every 12 months at Station 13 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2).

17. On May 4, 2005, Respondent failed to ensure that each current employee at Station 13 was made aware of the purpose and correct operation of the Stage II equipment in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1).
18. On May 4, 2005, Respondent failed to maintain the Stage II Vapor Recovery System in proper operating condition, including but not limited to the absence or disconnection of any component that was a part of the approved system at Station 13 in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(3)(A).
19. On May 4, 2005, Respondent failed to present for inspection by Commission personnel all required records at Station 13 pertaining to an UST system in violation of 30 TEX. ADMIN. CODE § 334.10(b).
20. On May 4, 2005, Respondent failed to ensure that Station 13 had a release-detection method capable of detecting a release from any portion of the UST system which contained regulated substances, including the tanks, piping, and other ancillary equipment; failed to conduct proper release detection for the piping associated with the UST system; failed to test the line leak detector on an annual basis for performance and operational reliability; and failed to conduct monthly reconciliation of inventory control records in a manner sufficiently accurate to detect a release which equalled or exceeded the sum of one percent of flow-through plus 130 gallons in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii).
21. On May 4, 2005, Respondent failed to ensure that a fully and accurately completed self-certification form was submitted to the Commission and failed to ensure that a valid, current delivery certificate was posted at Station 13 and was visible at all times in violation of

TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and (c)(5)(A)(iii).

22. On May 4, 2005, Respondent failed to notify the Commission regarding any SIRs that were noted as inconclusive, or of a suspected release at Station 13, in violation of 30 TEX. ADMIN. CODE §§ 334.72 and 334.50(d)(9)(A)(v).
23. On May 4, 2005, Respondent failed to immediately investigate and confirm within 30 days all suspected releases of regulated substances at an UST at Station 12 in violation of 30 TEX. ADMIN. CODE § 334.74.
24. On May 4, 2005, Respondent failed to conduct a tank tightness test on an UST at Station 13 and to internally inspect and assess the tank prior to placing the tank back into operation to assure that the tank was sound and free of corrosion holes in violation of 30 TEX. ADMIN. CODE § 334.52(b)(5).
25. Station 12 ceased operation in September 2005.
26. Station 13 ceased operation in December 2005.
27. The ED withdrew the request in the EDFARP for corrective action by Respondent.
28. For violations found at both Stations 12 and 13, the ED sought a total penalty of \$44,880.00.
28. The proposed penalty for violations at Station 12 comprised the following :
 - (a) a penalty of \$1,300.00 for violations in regard to the Stage II Vapor Recovery System;
 - (b) a penalty of \$6,500.00 for two events of failure to test the Stage II Vapor Recovery System equipment annually;
 - (c) a penalty of \$1,300.00 for failure to properly train employees;

- (d) a penalty of \$1,300.00 for failure to properly maintain the Stage II Vapor Recovery System;
- (e) a penalty of \$3,900.00 for failure to demonstrate proper financial assurance;
- (f) a penalty of \$3,250.00 for failure to have in place a release-detection method;
- (g) a penalty of \$130.00 for failure to complete and submit a self-certification form;
- (h) a penalty of \$650.00 for failure to have all emergency shutoff valves properly anchored;
- (i) a penalty of \$1,300.00 for failure to properly notify the Commission regarding certain SIR reports of concern; and
- (j) a penalty of \$3,250.00 for failure to promptly investigate and confirm suspected releases from the USTs.

29. The proposed penalty for violations at Station 13 comprised the following :

- (a) a penalty of \$1,250.00 for violations in regard to record keeping for the Stage II Vapor Recovery System;
- (b) a penalty of \$6,250.00 for two events of failure to test the Stage II Vapor Recovery System equipment annually;
- (c) a penalty of \$1,250.00 for failure to properly train employees;
- (d) a penalty of \$1,250.00 for failure to properly maintain the Stage II Vapor Recovery System;
- (e) a penalty of \$1,250.00 for failure to provide all required records;
- (f) a penalty of \$3,125.00 for failure to have in place a release-detection method;
- (g) a penalty of \$125.00 for failure to complete and submit a self-certification form;

- (h) a penalty of \$1,250.00 for failure to properly notify the Commission regarding certain SIR reports of concern;
 - (i) a penalty of \$3,125.00 for failure to promptly investigate and confirm suspected releases from the USTs; and
 - (j) a penalty of \$3,125.00 for failure to contact a tank tightness test and to internally inspect and assess an UST before putting the tank back into service.
30. The proposed base penalty of \$17,600.00 for Station 12 was increased by \$5,280.00 on the basis of one Notice of Violation (NOV) and one findings order issued to Respondent for a total penalty of \$22,880.00.
31. The proposed base penalty of \$17,600 for Station 13 was increased by \$4,400.00 on the basis of one findings order issued to Respondent for a total penalty of \$22,000.00.
32. Pursuant to Order No. 2 issued on September 11, 2006, by the presiding ALJ, the TCEQ Financial Administration Division performed a financial review to determine Respondent's ability to pay the proposed administrative penalty.
33. Respondent is able to pay \$26,661.00 of the proposed administrative penalty.
34. On February 21, 2006, the ED mailed a copy of the EDFARP to Respondent .
35. On March 14, 2006, Respondent requested a contested case hearing.
36. On May 1, 2006, the ED referred the case to SOAH for hearing.
37. On May 3, 2006, the Chief Clerk of the Commission mailed notice of the scheduled preliminary hearing to Respondent.
38. The notice of hearing:
- Indicated the time, date, place, and nature of the hearing;

- Stated the legal authority and jurisdiction for the hearing;
 - Indicated the statutes and rules the ED alleged Respondent violated;
 - Referred to the EDFARP, a copy of which was attached, which indicated the matters asserted by the ED;
 - Advised Respondent, in at least 12-point bold-faced type, that failure to appear at the preliminary hearing or the evidentiary hearing in person or by legal representative would result in the factual allegations contained in the notice and EDPRP being deemed as true and the relief sought in the notice possibly being granted by default; and
 - Included a copy of the ED's penalty calculation worksheet, which showed how the penalty was calculated for the alleged violations.
39. At the preliminary hearing on May 25, 2006, the ED appeared through Attorney Robert R. Mosley and established jurisdiction to proceed. Respondent appeared through Attorney Jennifer Fleck.
40. The hearing on the merits was conducted on August 13, 2007, by ALJ Cassandra J. Church, after agreed continuances requested by the parties and a review of Respondent's ability to pay.
41. The record closed on August 17, 2007, with the filing of an agreed exhibit.

II. CONCLUSIONS OF LAW

1. Under TEX. WATER CODE ANN. § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the TEX. WATER CODE ANN. or of the TEX. HEALTH & SAFETY CODE ANN. within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.
2. Under TEX. WATER CODE ANN. § 7.052, a penalty may not exceed \$10,000.00 per violation, per day for each violation at issue in this case.
3. As required by TEX. WATER CODE ANN. § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104, Respondent was notified of the EDFARP and of the opportunity to request a hearing on the alleged violations or the penalties or corrective actions proposed therein.
4. As required by TEX. GOV'T CODE ANN. §§ 2001.051(1) and 2001.052; TEX. WATER CODE ANN. § 7.058; 1 TEX. ADMIN. CODE § 155.27; and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6, Respondent was notified of the hearing on the alleged violations and the proposed penalties.
5. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
6. Based on the above Findings of Fact, Respondent violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1), (5), and (6).
7. Based on the above Findings of Fact, Respondent violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2).

8. Based on the above Findings of Fact, Respondent violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1).
9. Based on the above Findings of Fact, Respondent violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(3)(A) and (J).
10. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 37.815(a) and (b).
11. Based on the above Findings of Fact, Respondent violated TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii).
12. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 334.8(c)(4)(B).
13. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
14. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(v) and 334.72.
15. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 334.74.
16. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 334.10(b).
17. Based on the above Findings of Fact, Respondent violated 30 TEX. ADMIN. CODE § 334.52(b)(5).
18. In determining the amount of an administrative penalty, TEX. WATER CODE ANN. § 7.053 requires the Commission to consider several factors including:

- The violation's impact or potential impact on public health and safety, natural resources and their uses, and other persons;
 - The nature, circumstances, extent, duration, and gravity of the prohibited act;
 - The history and extent of previous violations by the violator;
 - The violator's degree of culpability, good faith, and economic benefit gained through the violation;
 - The amount necessary to deter future violations; and
 - Any other matters that justice may require.
19. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
 20. Based on consideration of the above Findings of Fact and Conclusions of Law, the factors set out in TEX. WATER CODE ANN. § 7.053, and the Commission's Penalty Policy, the ED correctly calculated the penalties for each of the alleged violations, resulting in a total proposed administrative penalty in the amount of \$44,880.00.
 21. Respondent timely raised the issue of its ability to pay the proposed penalty and met its burden of proof, pursuant to 30 TEX. ADMIN. CODE § 70.8, to show that Respondent is able to pay an administrative penalty only in the amount \$26,661.00.
 22. Based on consideration of the above Findings of Fact and Conclusions of Law, an administrative penalty in the amount of \$44,880.00 is justified, a reasonable exercise of the Commission's authority, and should be assessed against Respondent.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. Within 30 days after the effective date of this Commission Order, Respondent shall pay an administrative penalty in the amount of \$44,880.00 for violations of TEX. HEALTH & SAFETY CODE § 382.085(b); TEX. WATER CODE § 26.3475(a) and (c)(1); and 30 TEX. ADMIN. CODE §§ 115.242(3)(A); 115.246(1), (4) and (5); 115.248(1); 334.8(c)(4)(B) and (c)(5)(A)(iii); 334.10(b); 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii); 334.50(d)(9)(A)(v); 334.52(b)(5); 334.72; and 334.74. The payment of the administrative penalty herein completely resolves the violations set forth by this Order. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Checks rendered to pay penalties imposed by this Order shall be made out to "TCEQ." Administrative penalty payments shall be sent with the notation "Re: SNW Enterprises, Inc., ID No. 26440 RN."

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.

3. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
4. The effective date of this Order is the date the Order is final, as provided by TEX. GOV'T CODE ANN. § 2001.144 and 30 TEX. ADMIN. CODE § 80.273.
5. As required by TEX. WATER CODE ANN. § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Respondent.
6. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Buddy Garcia, Chairman
For the Commission